

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

EDWARD STEWART,

Petitioner,

No. CIV S-05-0458 DFL KJM P

vs.

M. SHEPHERD,

Respondent.

ORDER

Petitioner, a state prisoner proceeding pro se, has filed this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On February 23, 2006, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. Respondent has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis. The court adopts the magistrate judge's conclusion that there is a liberty interest

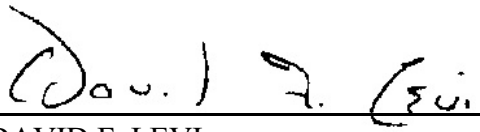
1 in parole under the California parole scheme. The court declines to adopt the magistrate judge's  
2 discussion regarding the extent of that liberty interest as it is not necessary to the disposition of  
3 respondent's motion. See the court's order in Johnson v. Finn, CIV S-05-385 DFL GGH P.

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. The findings and recommendations filed February 23, 2006, are adopted to the  
6 extent indicated above; and

7 2. Respondent's motion to dismiss is denied.

8 DATED: 3/31/2006

9  
10  
11   
12 DAVID F. LEVI  
13 United States District Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26